

IN RE: PETITION FOR ZONING VARIANCE  
SE/S Birdale Avenue, 322' SW  
of the c/l of Gunder Avenue  
(13211 Birdale Avenue)  
15th Election District  
6th Councilmanic District  
Ronald W. Bair  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 92-430-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance in which the Petitioner requests relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50.4 feet in lieu of the required 55 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioner, Ronald W. Bair, appeared and testified. Also appearing on behalf of the Petition was Eugene W. Schwandtner, Contract Purchaser of the subject property. There were no Protestants.

Testimony indicated that the subject property, known as 13211 Birdale Avenue, consists of 7,560 sq.ft. zoned D.R. 5.5 and is presently unimproved. Said property is located within the Chesapeake Bay Critical Areas near Bird River. The Petitioner has contracted to sell the subject property to Eugene Schwandtner who is desirous of constructing a single family dwelling thereon in accordance with Petitioner's Exhibit 1. Testimony indicated that the subject property is located in the subdivision known as Twin Rivers Beach which was developed with 50-foot wide lots many years ago. Petitioner testified that there is no available land on either side of the subject lot from which to acquire the additional land needed and to require strict compliance with the zoning regulations would result in practical difficulty and unreasonable hardship for him.

This property is located within the Chesapeake Bay Critical Areas and as such, is subject to any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) as to Critical Areas requirements. Accordingly, the granting of the relief requested herein is contingent upon compliance with any recommendations made by DEPRM concerning the proposed development upon completion of their review.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the require-

ments from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 24<sup>th</sup> day of June, 1992 that the Petition for Zoning Variance requesting relief from Section 1802.3.C.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a minimum lot width of 50.4 feet in lieu of the required 55 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The relief granted herein is contingent upon the Petitioner's compliance with any recommendations made by DEPRM upon completion of their findings. Petitioner shall submit a Critical Area Findings Plan for review and approval by DEPRM prior to the issuance of any permits.
- 3) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

ORDER RECEIVED FOR FILING  
Date 6/24/92  
By [Signature]

TMK:bjs

#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY TOWSON, MARYLAND

District 1524 Date of Posting 6/24/92  
Posted for Variance  
Petitioner Eugene W. Schwandtner & Ronald W. Bair  
Location of property SE/S Birdale Ave. (13211), 322' SW/Gunder Ave.  
Location of Sign Posting No. 6 w/2, on property of Petitioner  
Remarks [Signature] Date of return 7/21/92  
Number of Signs 1

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., May 21, 1992  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 21, 1992

THE JEFFERSONIAN,  
S. Zeke Orlin  
Publisher

\$ 39.74

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

June 24, 1992

(410) 887-4386

Mr. Ronald W. Bair  
12 Fitzgerald Court  
Baltimore, Maryland 21234

RE: PETITION FOR ZONING VARIANCE  
SE/S Birdale Avenue, 322' SW of the c/l of Gunder Avenue  
(13211 Birdale Avenue)  
15th Election District - 6th Councilmanic District  
Ronald W. Bair - Petitioner  
Case No. 92-430-A

Dear Mr. Bair:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 687-3391.

Very truly yours,

Timothy M. Kotroco  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TMK:bjs

cc: Chesapeake Bay Critical Areas Commission  
45 S. Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM

People's Counsel

file

Mr. Eugene W. Schwandtner  
902-J Swallow Crest Court, Edgewood, Md. 21040

CRITICAL AREA



## Petition for Variance

to the Zoning Commissioner of Baltimore County  
for the property located at 13211 BIRDALE AVE  
which is presently zoned DRS-5

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.3.C.1 of THE B.C.Z.R. TO PERMIT A MINIMUM LOT WIDTH of 50.4 FT IN LIEU of THE REQUIRED 55 FT

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

THE FRONTAGE OF THIS PROPERTY IS 50.4 FEET. SINCE 55 FEET IS REQUIRED, WE CANNOT OBTAIN A BUILDING PERMIT WITHOUT A VARIANCE

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

EUGENE W. SCHWANDTNER

Eugene W. Schwandtner

902 J Swallow Crest Ct

EDGEWOOD MD 21040

Attorney for Petitioner:

[Signature]

Address Phone No.

City State Zip

ORDER RECEIVED FOR FILING

Date 6/24/92

By [Signature]

(Who do attorney declares and affirms, under the penalties of perjury, that true are the legal owner(s) of the property which is the subject of this Petition.)

Legal Owner(s)

RONALD W. BAIR

Ronald W. Bair

[Signature]

Address Phone No.

City State Zip

Signature

Address Phone No.

City State Zip

ESTIMATED LENGTH OF HEARING

on following date

REVIEWED BY: JCM DATE: 6-30-92

#### ZONING DESCRIPTION FOR 13211 BIRDALE AVE.

BEGINNING FOR THE FIRST AND SECOND THEREOF ON THE SOUTHEAST SIDE OF BIRDALE AVE, WHICH IS 30 FEET WIDE AT A DISTANCE OF 332.4 FEET SOUTHWEST FROM THE CENTERLINE OF GUNDER AVE WHICH IS 40 FEET WIDE, BEING LOTS # 306 + 307 AS Laid OUT ON THE PLAT OF TWIN RIVER BEACH, SECTION "A" AS RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK L. M. L. M. No. 9, FOLIO 33, CONTAINING 7560 SQUARE FEET. ALSO KNOWN AS 13211 BIRDALE AVENUE AND LOCATED IN THE 15th ELECTION DISTRICT. ALSO RECORDED IN LIBER 8050 PAGE 551.



Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt

Date

92-430

Account: R-001-6150

6/18/92

00209616

PUBLIC HEARING FEES CITY PRICE  
\$80 - POSTING SIGNS / ADVERTISING 1 / \$74.74  
TOTAL: \$74.74

LAST NAME OF OWNER: BAIR

04A04W004MCHRC  
BA C002:25F06-18-92  
Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

DATE: 6/1/92

Ronald W. Bair  
12 Fitzgerald Court, #8  
Baltimore, Maryland 21234

RE:  
CASE NUMBER: 92-430-A  
SE/8 Birdale Avenue, 322' SW from c/l Gunder Avenue  
13211 Birdale Avenue  
15th Election District - 6th Councilmanic  
Petitioner(s): Ronald W. Bair

Dear Petitioner(s):

Please be advised that \$ 74.76 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your order, immediate attention to this matter is suggested.

ARNOLD JABLON  
DIRECTOR

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

MAY 15, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

CASE NUMBER: 92-430-A  
SE/8 Birdale Avenue, 322' SW from c/l Gunder Avenue  
13211 Birdale Avenue  
15th Election District - 6th Councilmanic  
Petitioner(s): Ronald W. Bair  
HEARING: WEDNESDAY, JUNE 17, 1992 at 11:00 a.m.

Variance to permit a minimum lot width of 50.4 ft. in lieu of the required 55 ft.

Lawrence E. Schmidt  
Zoning Commissioner of  
Baltimore County

cc: Ronald W. Bair  
Eugene W. Schenckel

NOTE: HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

887-3353

June 2, 1992

Mr. Ronald W. Bair  
12 Fitzgerald Court  
Baltimore, MD 21234

RE: Item No. 457, Case No. 92-430-A  
Petitioner: Ronald W. Bair, et al  
Petition for Variance

Dear Mr. Bair:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
Office of Planning & Zoning

111 West Chesapeake Avenue  
Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this 30th day of April, 1992.

ARNOLD JABLON  
DIRECTOR

Received By:  
W. Carl Richards Jr.  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Ronald W. Bair  
Petitioner's Attorney:

DPW/Developers Engineering Division (Public Services)  
Development Review Committee Response Form  
Authorized signature: [Signature] Date: 5/18/92

Project Name	Waiver Number	Zoning Issue	Meeting Date
9690 Deereco Road Limited Partnership	450		5-11-92
DED DEPRM RP STP TE			NC
Orville Jones	451		NC
DED DEPRM RP STP TE			NC
Harbor Realty Partnership	452		NC
DED DEPRM RP STP TE			NC
Jerald H. And Brenda D. Windes	453		NC
DED DEPRM RP STP TE			NC
Daniel C. And Susan E. Gutkin	454		NC
DED DEPRM RP STP TE			NC
Donald And Anne Kahn	455		NC
DED DEPRM RP STP TE			NC
Signet Bank, Maryland	456		NC
DED DEPRM RP STP TE			NC
Ronald W. Bair	457		NC
DED DEPRM RP STP TE			NC
A. Eric And Esther J. Dott	458		NC
DED DEPRM RP STP TE			NC
William J. And Mary Jane Kramer	459		NC
DED DEPRM RP STP TE			NC
Douglas B. And Judith A. Celmar	460		NC
DED DEPRM RP STP TE			NC

COUNT 11

BALTIMORE COUNTY, MARYLAND

OFFICE OF PLANNING AND ZONING  
New Courts Building  
401 Bosley Avenue  
Towson, MD 21204

MEMORANDUM

TO: Arnold Jablon, Director - Zoning Administration & Development Management

FROM: Ervin McDaniel, Chief Development Review Section  
Office of Planning and Zoning

DATE: May 13, 1992

SUBJECT: PETITIONS FROM ZONING ADVISORY COMMITTEE - 5/11/92

The Office of Planning and Zoning has no comments on the following petitions:

Jerald & Brenda Windes - Item 453  
Daniel & Susan Outkin - Item 454  
Donald & Anne Kahn - Item 455  
Ronald W. Bair - Item 457  
William & Mary Jane Kramer - Item 459  
Douglas & Judith Celmar - Item 460

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning and Zoning at 887-3211.

DPW/Traffic Engineering  
Development Review Committee Response Form  
Authorized signature: [Signature] Date: 5/18/92

Project Name	Waiver Number	Zoning Issue	Meeting Date
9690 Deereco Road Limited Partnership	450		5-11-92
DED DEPRM RP STP TE		N/C	
Orville Jones	451		N/C
DED DEPRM RP STP TE			
Harbor Realty Partnership	452		N/C
DED DEPRM RP STP TE			
Jerald H. And Brenda D. Windes	453		N/C
DED DEPRM RP STP TE			
Daniel C. And Susan E. Gutkin	454		N/C
DED DEPRM RP STP TE			
Donald And Anne Kahn	455		N/C
DED DEPRM RP STP TE			
Signet Bank, Maryland	456		N/C
DED DEPRM RP STP TE			
Ronald W. Bair	457		N/C
DED DEPRM RP STP TE			
A. Eric And Esther J. Dott	458		N/C
DED DEPRM RP STP TE			
William J. And Mary Jane Kramer	459		N/C
DED DEPRM RP STP TE			
Douglas B. And Judith A. Celmar	460		N/C
DED DEPRM RP STP TE			

COUNT 11

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: May 14, 1992

FROM: Mr. J. Lawrence Pilson  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #457  
13211 Birdale Avenue  
Zoning Advisory Committee Meeting May 11, 1992

The Department of Environmental Protection and Resource Management requests an extension for the review of the above referenced zoning item to determine whether the proposed development is in compliance with the Chesapeake Bay Critical Area Regulations. The applicant must submit a Critical Area Findings Plan for review and approval by this Department prior to preparation of a Critical Area Findings for the development. The applicant may contact the Environmental Impact Review Division of the Department at 887-2904 for details.

JLP:sp  
JABLON/S/TXTSPB

RECEIVED  
MAY 19 1992  
ZONING OFFICE



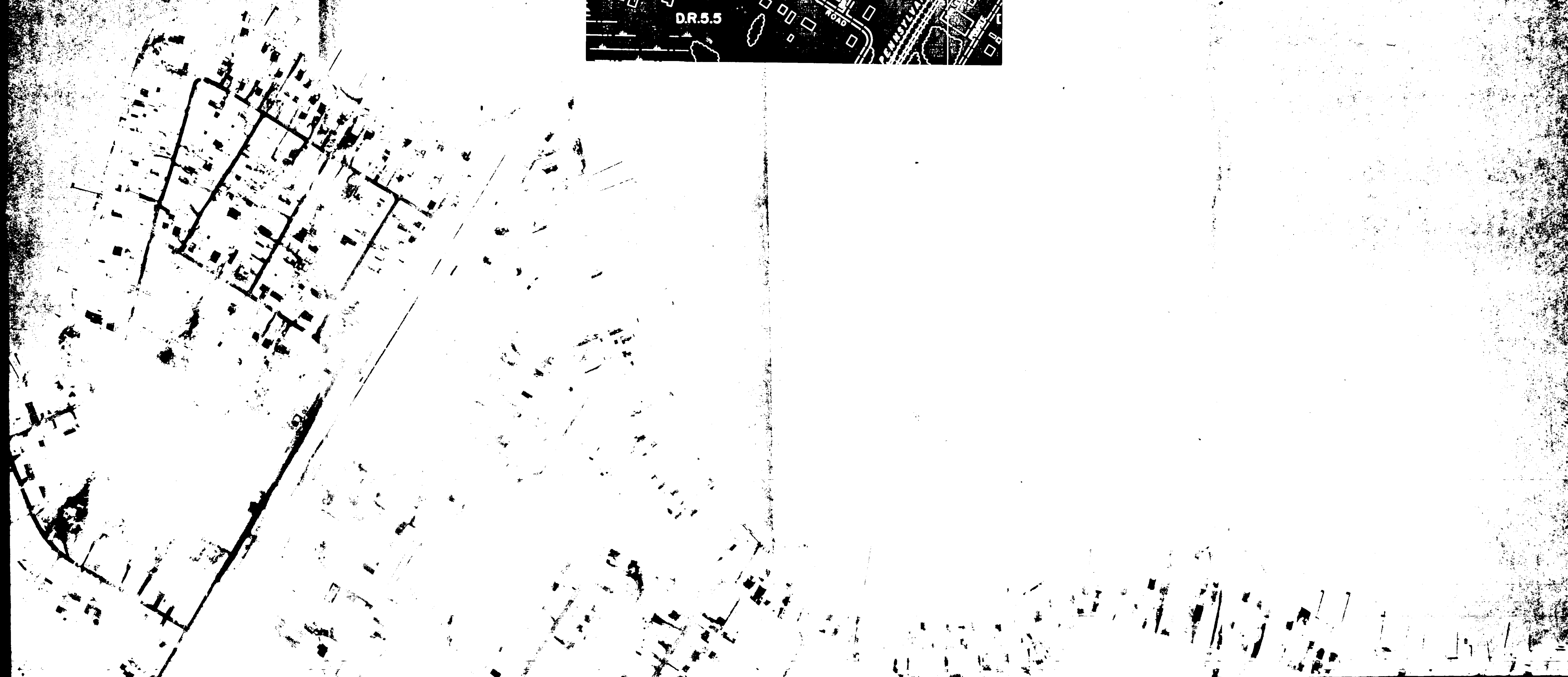
[illegible]



BIRD RIVER

92-430-A 457

NE  
8M



457

BALTIMORE COUNTY  
OFFICE OF PLANNING AND ZONING  
PHOTOGRAPHIC MAP

SCALE  
1" = 200' ±

LOCATION

SHEET

DATE  
OF  
PHOTOGRAPHY  
JANUARY  
1986

HAREWOOD

N.E.  
8-M